

Senate File 427

S-3087

1 Amend Senate File 427 as follows:

2 1. Page 1, before line 1 by inserting:

3 <Section 1. Section 704.1, Code 2015, is amended to
4 read as follows:

5 **704.1 Reasonable force.**

6 1. ~~"Reasonable force" is means~~ that force and no
7 ~~more~~ which a reasonable person, in like circumstances,
8 would judge to be necessary to prevent an injury or
9 loss and can include deadly force if it is reasonable
10 to believe that such force is necessary to avoid injury
11 or risk to one's life or safety or the life or safety
12 of another, or it is reasonable to believe that such
13 force is necessary to resist a like force or threat.

14 2. Reasonable force, including deadly force, may
15 be used even if an alternative course of action is
16 available if the alternative entails a risk to life
17 or safety, or the life or safety of a third party, ~~or~~
18 ~~requires one to abandon or retreat from one's dwelling~~
19 ~~or place of business or employment.~~

20 3. A person may be wrong in the estimation of the
21 danger or the force necessary to repel the danger as
22 long as there is a reasonable basis for the belief
23 of the person and the person acts reasonably in the
24 response to that belief.

25 4. A person who is not engaged in illegal activity
26 has no duty to retreat from any place where the person
27 is lawfully present before using force as specified in
28 this chapter. A finder of fact shall not be permitted
29 to consider the possibility of retreat as a factor in
30 determining whether or not a person who used force
31 reasonably believed that the force was necessary to
32 prevent injury, loss, or risk to life or safety.

33 Sec. _____. Section 704.2, Code 2015, is amended by
34 adding the following new subsection:

35 **NEW SUBSECTION. 1A.** A threat to cause serious
36 injury or death, by the production, display, or
37 brandishing of a deadly weapon, is not deadly force,
38 as long as the actions of the person are limited to
39 creating an expectation that the person may use deadly
40 force to defend oneself, another, or as otherwise
41 authorized by law.

42 Sec. _____. **NEW SECTION. 704.2A Justifiable use of**
43 **deadly force.**

44 1. For purposes of this chapter, a person is
45 presumed to reasonably believe that deadly force is
46 necessary to avoid injury or risk to one's life or
47 safety or the life or safety of another in either of
48 the following circumstances:

49 a. The person against whom force is used, at the
50 time the force is used, is doing any of the following:

1 (1) Unlawfully entering by force or stealth, or
2 has unlawfully entered by force or stealth and remains
3 within the dwelling, place of business or employment,
4 or occupied vehicle of the person using force.

5 (2) Unlawfully removing or is attempting to
6 unlawfully remove another person against the other
7 person's will from the dwelling, place of business or
8 employment, or occupied vehicle of the person using
9 force.

10 b. The person using force knows or has reason
11 to believe that any of the conditions set forth in
12 paragraph "a" are occurring or have occurred.

13 2. The presumption set forth in subsection 1 does
14 not apply if, at the time force is used, any of the
15 following circumstances are present:

16 a. The person using defensive force is engaged
17 in a criminal offense, is attempting to escape from
18 the scene of a criminal offense that the person has
19 committed, or is using the dwelling, place of business
20 or employment, or occupied vehicle to further a
21 criminal offense.

22 b. The person sought to be removed is a child or
23 grandchild or is otherwise in the lawful custody or
24 under the lawful guardianship of the person against
25 whom force is used.

26 c. The person against whom force is used is a
27 peace officer who has entered or is attempting to
28 enter a dwelling, place of business or employment, or
29 occupied vehicle in the lawful performance of the peace
30 officer's official duties, and the person using force
31 knows or reasonably should know that the person who has
32 entered or is attempting to enter is a peace officer.

33 d. The person against whom the force is used has
34 the right to be in, or is a lawful resident of, the
35 dwelling, place of business or employment, or occupied
36 vehicle of the person using force, and a protective or
37 no-contact order is not in effect against the person
38 against whom the force is used.

39 Sec. _____. Section 704.3, Code 2015, is amended to
40 read as follows:

41 **704.3 Defense of self or another.**

42 A person is justified in the use of reasonable force
43 when the person reasonably believes that such force is
44 necessary to defend oneself or another from any actual
45 or imminent use of unlawful force.

46 Sec. _____. **NEW SECTION. 704.4A Immunity for**
47 **justifiable use of force.**

48 1. As used in this section, "*criminal prosecution*"
49 means arrest, detention, charging, or prosecution.

50 2. A person who uses reasonable force pursuant

1 to this chapter shall be immune from any criminal
2 prosecution or civil action for using such force.
3 3. A law enforcement agency may use standard
4 investigating procedures for investigating the use of
5 force, but the law enforcement agency shall not arrest
6 a person for using force unless the law enforcement
7 agency determines there is probable cause that the
8 force was unlawful under this chapter.

9 4. The court shall award reasonable attorney fees,
10 court costs, compensation for loss of income, and all
11 expenses incurred by the defendant in defense of any
12 civil action brought by the plaintiff if the court
13 finds that the defendant is immune from prosecution as
14 provided in subsection 2.

15 Sec. _____. Section 704.7, Code 2015, is amended to
16 read as follows:

17 **704.7 Resisting ~~foreible~~ violent felony.**

18 1. As used in this section, "violent felony" means
19 any felonious sexual abuse involving compulsion or
20 the use of a weapon or any felonious assault, murder,
21 kidnapping, robbery, arson, or burglary.

22 2. A person who ~~knows~~ reasonably believes that a
23 ~~foreible~~ violent felony is being or will imminently
24 ~~be~~ perpetrated is justified in using, ~~against the~~
25 ~~perpetrator,~~ reasonable force, including deadly force,
26 ~~against the perpetrator or perpetrators to prevent the~~
27 ~~completion of~~ or terminate the perpetration of that
28 felony.>

29 2. Page 3, after line 8 by inserting:

30 <Sec. _____. REPEAL. Section 707.6, Code 2015, is
31 repealed.>

32 3. Title page, line 2, after <suppressors,> by
33 inserting <justifiable use of reasonable force,>

34 4. By renumbering as necessary.

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